Federal Rule of Civil Procedure 4(m) permits a court to dismiss an action, on its own initiative after notice to the plaintiff, for failure to serve a summons on a defendant within 120 days after filing the complaint. Plaintiff filed her complaint in this action on December 23, 2008. Pursuant to the magistrate judge's orders (#22, #38), plaintiff had up to and including August 5, 2009, in which to serve defendants Jason Weyer and Geri Reveal by publication. Neither Reveal nor Weyer has appeared in this action, however, nor has plaintiff filed proof of service as to either. On December 21, 2010, the court ordered the plaintiff to show cause on or before January 12, 2011, why defendants Reveal and Weyer should not be dismissed pursuant to Rule 4(m) for failure to

timely serve. Plaintiff did not respond to the court's order and has not shown good cause to excuse the lack of service. Accordingly, plaintiff's claims against defendants Reveal and Weyer are **DISMISSED WITHOUT PREJUDICE**. DATED: This 13th day of January, 2011. Howard DM: Killer UNITED STATES DISTRICT JUDGE

Case 2:08-cv-01817-HDM-PAL Document 88 Filed 01/13/11 Page 2 of 2